

## AMENDMENT TO THE CLAIMS

This listing of claims is intended to replace all prior versions, and listings of, claims in the subject application.

### Listing of claims:

1-10. (Canceled)

11. (Currently Amended) A computer readable media having instructions executable by a computer for use in selecting a fulfillment plan for moving an item within a supply chain distributed over a plurality of geographic locations, the instructions performing steps comprising:

receiving an order for an item;

in response to receipt of the order for the item constructing a plurality of alternative fulfillment plans for moving the item from a sourcing point to ~~one or more~~ each of the plurality of geographic locations within the supply chain;

evaluating each of the constructed plurality of alternative fulfillment plans against a predetermined criteria; and

selecting for implementation one of the constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria, the selected one of the plurality of alternative fulfillment plan being used to position the item at one of the plurality of a geographic locations within the supply chain thereby making the item available for use in meeting the order.

12. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using a customer specified level of service when constructing the plurality of alternative fulfillment plans.

13. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using branch and bound techniques to determine candidate sourcing points for the item when constructing the plurality of alternative fulfillment plans.

14. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using a customer specified point of delivery when constructing the plurality of alternative fulfillment plans.

15. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using a customer specified delivery date when constructing the plurality of alternative fulfillment plans

16. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using various combinations of sourcing points within the supply chain when constructing the plurality of alternative fulfillment plans.

17. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using customer specified consolidation requirements when constructing the plurality of alternative fulfillment plans.

18. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using activity costs when constructing the plurality of alternative fulfillment plans.

19. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using inventory age when constructing the plurality of alternative fulfillment plans.

20. (Previously Presented) The computer readable media as recited in claim 11, wherein the instructions further perform the step of using a customer specified price quote when evaluating the constructed plurality of alternative fulfillment plans.

## REMARKS

In the application claims 11-20 remain pending. Claims 1-10 have been canceled without prejudice. The reconsideration of the rejections of the claims is requested.

Pending claims 11-20 stand rejected under 35 U.S.C. § 101 “because the claimed inventions are directed to non-statutory subject matter.” In response, the claims have been amended to clarify that the recited computer readable media has instructions that are to be executed by a computer. Since the claims as amended are clearly directed to statutory subject matter, it is submitted that the rejection under 35 U.S.C. § 101 must be withdrawn.

Pending claims 11, 12, 14-18, and 20 stand rejected under 35 U.S.C. § 102 as being anticipated by Altendahl (U.S. Patent No. 6,571,213). Pending claim 13 stands rejected under 35 U.S.C. § 103 as being rendered obvious by Altendahl as modified by Dietrich (U.S. Patent No. 5,216,593). Pending claim 19 stands rejected under 35 U.S.C. § 103 as being rendered obvious by Altendahl as modified by Landvater (U.S. Patent No. 6,609,101).

In response, it is respectfully submitted that the invention claimed is directed to a computer readable media having instructions for use in selecting a fulfillment plan for moving an item to one of plural geographic locations within a supply chain. In accordance with the claims, the instructions receive an order for an item and, in response to receipt of the order for the item, construct a plurality of alternative fulfillment plans for moving the item from a sourcing point to each of plural geographic locations within the supply chain. The instructions then evaluate each of the constructed plurality of alternative fulfillment plans against a predetermined criteria and select for implementation one of the constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria. Predetermined criteria may include one or more of consolidation requirements, routing to delivery point, activity costs, transportation costs, holding costs, opportunity costs, excess inventory position, product age, margin on the order,

customer classification, degree of cost flexibility, customer pricing tolerance, etc. The selected one of the plurality of alternative fulfillment plans is then used to position the item that was the subject of the order at one of the plural geographic locations within the supply chain.

Considering now Altendahl, within Altendahl a single geographic destination for an item is required to be pre-designated (e.g., Chicago) and the system then merely functions to use various criteria to select a “route,” defined within Altendahl to be a parcel carrier (e.g., UPS) and parcel carrier service (e.g., ground), to move the item to that geographic destination. (Col. 4, lines 17-32).

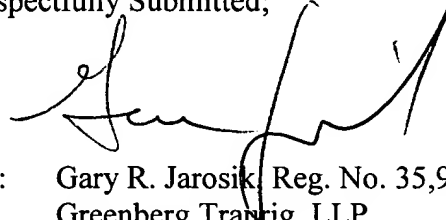
From the foregoing, it is evident that Altendahl fails to disclose, teach, or suggest at least the claimed constructing of a plurality of alternative fulfillment plans for moving an item from a sourcing point *to each of plural geographic locations within the supply chain* or evaluating each of the constructed plurality of alternative fulfillment plans against a predetermined criteria to select for implementation one of the constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria to thereby position an item that was the subject of the order at one of the plural geographic locations within the supply chain. Accordingly, it is respectfully submitted that Altendahl, whether considered alone or in combination with Dietrich and/or Landvater, cannot be said to disclose each and every element set forth in the claims. For this reason it is submitted that the rejection of the claims must be withdrawn.

CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested. Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

The Commissioner is authorized to charge any fee deficiency or credit overpayment to deposit account 50-2428 in the name of Greenberg Traurig.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read 'Gary R. Jarosik', is written over a horizontal line.

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